



THE CANADIAN
BAR ASSOCIATION
L'ASSOCIATION DU
BARREAU CANADIEN

INFLUENCE. LEADERSHIP. PROTECTION.

June 19, 2014

Via email: tbf.minister@gov.ab.ca

The Honourable Doug Horner
President of Treasury Board and Minister of Finance
423 Legislature Building
10800 - 97 Avenue
Edmonton, AB T5K 2B6

Dear Minister Horner,

Re: Harmonization of Pooled Registered Pension Plans (PRPPs)

I am writing on behalf of the Canadian Bar Association's National Pensions and Benefits Law Section (CBA Section) to ask your government to harmonize legislation for pooled registered pension plans (PRPPs) with that in other jurisdictions across Canada.

The Canadian Bar Association is a national association of 37,500 lawyers, Quebec notaries, students and law teachers, with a mandate to promote improvements in the law and the administration of justice. The CBA Section is comprised of lawyers from across Canada who practise in the pensions and benefits area of law, including counsel to benefit administrators, employers, unions, employees and employee groups, trust and insurance companies, pension and benefits consultants and investment managers and advisors.

BACKGROUND

The CBA Section supports PRPPs, if properly structured, as vehicles that would improve the retirement savings system by providing an accessible, straightforward and administratively low-cost option for Canadians, particularly the self-employed and employees of small and medium-sized businesses. The CBA Section believes that a high-level of harmonization across Canada is essential for PRPPs to serve their purpose as such an option.

PRPP legislation has been introduced federally and in British Columbia, Alberta, Saskatchewan and Quebec. The federal government was first to introduce the concept in 2011, with the federal *Pooled Registered Pension Plans Act* and Regulations coming into force in December 2012. Quebec followed in December 2013, passing Bill 39 to create Voluntary Retirement Savings Plans (VRSPs), Quebec's version of the PRPP. Bill 39 comes into force on July 1, 2014. The Quebec legislation differs from the federal legislation.

In May 2013, PRPP legislation in both Alberta (Bill 18) and Saskatchewan (Bill 92) received Royal Assent, but neither have entered into force. Alberta adopted legislation different from the federal

legislation, while the Saskatchewan legislation primarily (though not entirely) imports by reference the federal legislation leaving many of the details to be prescribed in the Regulations to follow.

In British Columbia, Bill 9 was introduced in February 2014 and received second reading on March 19, 2014. Much like Saskatchewan, Bill 9 essentially imports the federal legislation by reference.

The CBA Section has participated in consultations on the federal PRPPs at different stages including the design and regulatory framework, the PRPP legislation and the tax rules for PRPPs.

The CBA Section has also made [submissions](#) on Quebec's Bill 80 – An Act respecting voluntary retirement savings plans and Saskatchewan's [consultation](#) on PRPPs.

To achieve harmonization, we urge the legislators of each province to consider the following.

Saskatchewan

We urge your government to consider harmonizing the legislative and regulatory framework for PRPPs in your province.

Alberta and British Columbia

We urge your governments to consider harmonizing the legislative and regulatory framework in preparing the regulations for PRPPs in your respective provinces.

Quebec

We urge your government to consider harmonizing the legislative and regulatory framework of VRSPs with the framework of PRPPs in other Canadian jurisdictions if the legislature modifies the rules of VRSPs in the future.

Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island and Ontario

We urge your respective governments to consider harmonization when determining whether to enact legislation to permit PRPPs in your provinces and in setting up the legislative and regulatory framework for the provincial PRPPs.

PRPPs ACROSS CANADA

All Canadians should have equal access to PRPPs as part of their retirement planning arsenal. For PRPPs to function as they were designed they must be fully portable and therefore available across the country. PRPP providers (i.e., financial institutions) require economies of scale to keep investment and administrative costs as low as possible. The CBA Section is of the view that economies of scale and full portability can only be achieved if PRPPs are available in all Canadian jurisdictions, requiring that all provinces enact PRPP enabling legislation.

FEDERAL PRPP LEGISLATION VERSUS PROVINCIAL PENSION LEGISLATION

The CBA Section recommends that provincial PRPP legislation mirror the federal PRPP legislation, to the extent possible, for consistency, clarity, simplicity and cost minimization. Any provincial deviation from the federal PRPP legislative framework will likely result in complexity and increased cost which could reduce the likelihood that PRPPs will be successfully implemented and adopted by employers and employees across Canada. The CBA Section is of the view that deviation from the federal PRPP legislation should be an exception sparingly exercised.

There are some differences between federal and provincial pension legislation. If the provincial PRPP legislation "mirrors" the federal PRPP legislation, the provincial PRPP legislation may have provisions that are different from provincial pension legislation. There are two conceptual approaches on this issue. One approach is to consider a PRPP much like an RRSP and as an entirely different category of retirement savings vehicle, requiring an entirely different regulatory approach. The other approach is to take the view that a PRPP is a pension plan and should be subject to minimum standards protections. In this case, we believe that the provincial PRPP legislation should be consistent with provincial pension standards legislation. This will avoid creating an entirely new regulatory regime which may confuse stakeholders and increase costs.

PRPP LEGISLATION

In an ideal world, PRPP legislation and regulations would be fully harmonized. However, the jurisdictions that have thus far introduced or proposed PRPP legislation have taken different approaches. Quebec and Alberta have adopted their own distinct PRPP legislation while Saskatchewan and British Columbia have essentially adopted (by reference) most of the federal PRPP Act.

Some important differences between the federal PRPP legislation and the legislation introduced or adopted by some provinces may result in serious harmonization issues.

1. Plan Administrators (Licensing)

The Quebec VRSP Act provides that only life insurers, trust companies and investment fund managers may act as administrators of a VRSP while the federal Saskatchewan and British Columbia PRPP Acts permit any corporation to be an administrator if the required conditions are satisfied. The Alberta PRPP Act provides that any corporation licensed by the Superintendent may act as an administrator. The federal PRPP Regulations do not require that a corporation be a life insurer, a trust company or an investment fund manager to act as an administrator. A corporation that is not a life insurer, a trust company or an investment fund manager licensed to act as an administrator under the federal PRPP Act and Regulations would not be able to fulfill the same role under the Quebec VRSP Act and Regulations. Given that one of the main purposes of PRPPs is to provide pension coverage to workers without employer sponsored pension plans, the CBA Section believes that PRPP administrators licensed under provincial or federal legislation should be able to offer a PRPP anywhere across Canada.

2. Low Cost Requirement

Another example of the need for harmonization is the "low cost" requirement in all PRPP legislation. At present, only the Quebec VRSP draft Regulations and the federal PRPP Regulations set out criteria to determine whether a PRPP is being provided to its members at low cost. While the criteria in the federal PRPP Regulations is adopted (by reference) in the Quebec VRSP draft Regulations, these draft Regulations add other criteria that must also be satisfied for a VRSP to be provided at low cost. Given the fundamental importance of the low cost requirement, the CBA Section believes the rules for this requirement should be uniform across Canada. Indeed, having different rules imposes an additional administrative burden on plan administrators which in turn, will likely have an impact on the low cost requirement itself. This would be counterproductive. The CBA Section urges all jurisdictions to consider harmonization on at least the key principles and rules such as the "low cost" requirement.

3. Locking-in, Transfers and Refunds Rules

Locking-in rules also raise harmonization issues. The legislation in Saskatchewan, Alberta and British Columbia, as well as the federal PRPP Act, all provide that both member and employer

contributions (if any) are locked-in. However, the Quebec VRSP Act states that any employer contributions are to be credited to the member's locked-in account while member contributions are to be credited to their non-locked-in accounts. These different locking-in rules also have a direct impact on the rules for transfers and refunds. As a result, plan administrators will have to deal with different rules if the PRPP covers both Quebec and non-Quebec members. To keep PRPP costs low, PRPP legislation and regulations should not force plan administrators to apply different legislative and regulatory regimes.

4. Contributions

In no jurisdiction are employer contributions to PRPPs mandatory. Quebec requires most employers to make VRSPs available to employees, but there is no requirement for employer contributions.

Under the Quebec VRSP Act, members may determine their contributions, failing which the rate set by regulation applies. Under the federal, British Columbia, Saskatchewan and Alberta PRPP Acts, the administrator sets the member contribution rate(s) and there is no default rate. In all jurisdictions, members have an opportunity to reduce their contributions to zero for a period of time, which is specified in the federal PRPP Regulations but not yet prescribed in the other jurisdictions. Communicating and administering different contribution rules, including the contribution reduction provisions, adds to the complexity of administration.

5. Regulation of Member Optional Investments

Another example of different approaches is the regulation of investment options. All jurisdictions appear to require that the administrator establish a default investment option. However, the law varies in the degree of prescription imposed for the parameters for the default option. Under the federal legislation, the default option is loosely prescribed while the Quebec legislation includes specific investment criteria for the default option. The specific investment rules prescribed are also different between the federal and Quebec legislative schemes.

Further variation exists between the jurisdictions on whether alternative options may be made available to members, and if so, the number of options that may or must be offered. Under the federal, British Columbia, Saskatchewan and Alberta PRPP legislation, an administrator has discretion to offer members a choice of investments by offering alternative options, but is not required to offer options. In contrast, the Quebec legislation requires an administrator to offer members a choice of investments by offering from three to five alternative investment options.

As a consequence of these variations, plan administrators will have to deal with different investment rules and likely provide different investment options to its members if the PRPP covers members in multiple jurisdictions, especially between Quebec and non-Quebec members. This is inconsistent with the "low cost" intent and spirit of creating PRPPs which is achieved by keeping administrative expenses low and allowing pooled plans to capitalize on economies of scale. The CBA Section urges all jurisdictions to consider harmonization on at least the default investment options and rules for alternative options offered.

REGULATORY FRAMEWORK

In addition to legislative harmonization, the CBA Section supports regulatory harmonization of PRPPs. A high level of regulatory harmonization across the federal, provincial governments is instrumental in increasing the scale of PRPPs and achieving low costs. Regulatory harmonization of PRPPs would simplify administration, allowing lower administration fees, and provide consistency in the supervision and maintenance of PRPPs across different jurisdictions.

To achieve full regulatory harmonization, the CBA Section would prefer to have one supervisory authority oversee all aspects of PRPP regulation across Canada. Current and proposed PRPP legislation in Canada, however, have different supervisory authorities to regulate PRPPs based on the jurisdiction where a PRPP is registered. The CBA Section supports PRPP legislation that allows multi-jurisdictional agreements to be made between and among the governments of different Canadian jurisdictions, to authorize, among other things, the delegation of powers from one supervisory authority to another. A multilateral agreement would permit consistent and uniform supervision of multi-jurisdictional PRPPs. It could also reduce the possibility of inequities in the treatment and regulation of PRPPs and PRPP administrators across different jurisdictions.

The delegation of powers from one PRPP supervisory authority to another promotes regulatory harmonization while facilitating administration of a PRPP where it is offered in more than one jurisdiction.

Where a multi-jurisdictional PRPP is offered and the majority of members are located in one jurisdiction, the CBA Section supports the delegation of powers from the supervisory authority(ies) of the jurisdiction(s) with a minority of members to the supervisory authority of the jurisdiction with a majority of members. Limiting the number of regulating entities that a PRPP administrator must deal with for a multi-jurisdictional PRPP would ease administration and allow lower administrative costs. It would also encourage eligible PRPP administrators to offer a single PRPP across multiple jurisdictions, as opposed to different PRPPs in different jurisdictions, thereby increasing the cost of the PRPP.

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June 17, 2014

Via email: FIN.Minister@gov.bc.ca

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Minister of Finance
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Via email: minlabim@leg.gov.mb.ca

The Honourable Erna Braun
Minister of Labour and Immigration
Room 162 Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

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Another example of different approaches is the regulation of investment options. All jurisdictions appear to require that the administrator establish a default investment option. However, the law varies in the degree of prescription imposed for the parameters for the default option. Under the federal legislation, the default option is loosely prescribed while the Quebec legislation includes specific investment criteria for the default option. The specific investment rules prescribed are also different between the federal and Quebec legislative schemes.

Further variation exists between the jurisdictions on whether alternative options may be made available to members, and if so, the number of options that may or must be offered. Under the federal, British Columbia, Saskatchewan and Alberta PRPP legislation, an administrator has discretion to offer members a choice of investments by offering alternative options, but is not required to offer options. In contrast, the Quebec legislation requires an administrator to offer members a choice of investments by offering from three to five alternative investment options.

As a consequence of these variations, plan administrators will have to deal with different investment rules and likely provide different investment options to its members if the PRPP covers members in multiple jurisdictions, especially between Quebec and non-Quebec members. This is inconsistent with the "low cost" intent and spirit of creating PRPPs which is achieved by keeping administrative expenses low and allowing pooled plans to capitalize on economies of scale. The CBA Section urges all jurisdictions to consider harmonization on at least the default investment options and rules for alternative options offered.

REGULATORY FRAMEWORK

In addition to legislative harmonization, the CBA Section supports regulatory harmonization of PRPPs. A high level of regulatory harmonization across the federal, provincial governments is instrumental in increasing the scale of PRPPs and achieving low costs. Regulatory harmonization of PRPPs would simplify administration, allowing lower administration fees, and provide consistency in the supervision and maintenance of PRPPs across different jurisdictions.

To achieve full regulatory harmonization, the CBA Section would prefer to have one supervisory authority oversee all aspects of PRPP regulation across Canada. Current and proposed PRPP legislation in Canada, however, have different supervisory authorities to regulate PRPPs based on

the jurisdiction where a PRPP is registered. The CBA Section supports PRPP legislation that allows multi-jurisdictional agreements to be made between and among the governments of different Canadian jurisdictions, to authorize, among other things, the delegation of powers from one supervisory authority to another. A multilateral agreement would permit consistent and uniform supervision of multi-jurisdictional PRPPs. It could also reduce the possibility of inequities in the treatment and regulation of PRPPs and PRPP administrators across different jurisdictions.

The delegation of powers from one PRPP supervisory authority to another promotes regulatory harmonization while facilitating administration of a PRPP where it is offered in more than one jurisdiction.

Where a multi-jurisdictional PRPP is offered and the majority of members are located in one jurisdiction, the CBA Section supports the delegation of powers from the supervisory authority(ies) of the jurisdiction(s) with a minority of members to the supervisory authority of the jurisdiction with a majority of members. Limiting the number of regulating entities that a PRPP administrator must deal with for a multi-jurisdictional PRPP would ease administration and allow lower administrative costs. It would also encourage eligible PRPP administrators to offer a single PRPP across multiple jurisdictions, as opposed to different PRPPs in different jurisdictions, thereby increasing the cost of the PRPP.

With several PRPP supervisory authorities operating across Canada, the CBA Section favours the establishment and operation in Canada of an association of supervisory authorities to provide guidance and consistency in the regulation of PRPPs. A high level of regulatory harmonization of PRPPs would make it easier for PRPP administrators to provide PRPPs that serve their purpose of being an accessible and administratively low-cost option for Canadians to save for retirement.

We trust these comments are a helpful step toward harmonization. Please do not hesitate to let us know if you have any questions or if you would like any further information.

Yours truly,

(original signed by Noah Arshinoff for Lawrence Swartz)

Lawrence Swartz
Chair, National Pensions and Benefits Law Section

cc: Stacy Nagle
Executive Director, Manitoba Bar Association



THE CANADIAN
BAR ASSOCIATION
L'ASSOCIATION DU
BARREAU CANADIEN

INFLUENCE. LEADERSHIP. PROTECTION.

June 17, 2014

Via email: justice.comments@gnb.ca; angela.mazerolle@fcnb.ca

The Honourable Troy Lifford
Minister of Justice
Centennial Building
P. O. Box 6000
Fredericton, NB E3B 5H1

Angela Mazerolle
Superintendent and Director
Pensions Division, Financial and Consumer Services Commission
Frederick Square
77 Westmorland Street, Suite 450
Fredericton, NB E3B 6Z3

Dear Minister Lifford and Ms. Mazerolle,

Re: Harmonization of Pooled Registered Pension Plans (PRPPs)

I am writing on behalf of the Canadian Bar Association's National Pensions and Benefits Law Section (CBA Section) to ask your government to harmonize legislation for pooled registered pension plans (PRPPs) with that in other jurisdictions across Canada.

The Canadian Bar Association is a national association of 37,500 lawyers, Quebec notaries, students and law teachers, with a mandate to promote improvements in the law and the administration of justice. The CBA Section is comprised of lawyers from across Canada who practise in the pensions and benefits area of law, including counsel to benefit administrators, employers, unions, employees and employee groups, trust and insurance companies, pension and benefits consultants and investment managers and advisors.

BACKGROUND

The CBA Section supports PRPPs, if properly structured, as vehicles that would improve the retirement savings system by providing an accessible, straightforward and administratively low-cost option for Canadians, particularly the self-employed and employees of small and medium-sized businesses. The CBA Section believes that a high-level of harmonization across Canada is essential for PRPPs to serve their purpose as such an option.

PRPP legislation has been introduced federally and in British Columbia, Alberta, Saskatchewan and Quebec. The federal government was first to introduce the concept in 2011, with the federal *Pooled Registered Pension Plans Act* and Regulations coming into force in December 2012. Quebec followed in December 2013, passing Bill 39 to create Voluntary Retirement Savings Plans (VRSPs), Quebec's version of the PRPP. Bill 39 comes into force on July 1, 2014. The Quebec legislation differs from the federal legislation.

In May 2013, PRPP legislation in both Alberta (Bill 18) and Saskatchewan (Bill 92) received Royal Assent, but neither have entered into force. Alberta adopted legislation different from the federal legislation, while the Saskatchewan legislation primarily (though not entirely) imports by reference the federal legislation leaving many of the details to be prescribed in the Regulations to follow.

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The CBA Section has also made [submissions](#) on Quebec's Bill 80 – An Act respecting voluntary retirement savings plans and Saskatchewan's [consultation](#) on PRPPs.

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We urge your respective governments to consider harmonization when determining whether to enact legislation to permit PRPPs in your provinces and in setting up the legislative and regulatory framework for the provincial PRPPs.

PRPPs ACROSS CANADA

All Canadians should have equal access to PRPPs as part of their retirement planning arsenal. For PRPPs to function as they were designed they must be fully portable and therefore available across the country. PRPP providers (i.e., financial institutions) require economies of scale to keep investment and administrative costs as low as possible. The CBA Section is of the view that economies of scale and full portability can only be achieved if PRPPs are available in all Canadian jurisdictions, requiring that all provinces enact PRPP enabling legislation.

FEDERAL PRPP LEGISLATION VERSUS PROVINCIAL PENSION LEGISLATION

The CBA Section recommends that provincial PRPP legislation mirror the federal PRPP legislation, to the extent possible, for consistency, clarity, simplicity and cost minimization. Any provincial deviation from the federal PRPP legislative framework will likely result in complexity and increased cost which could reduce the likelihood that PRPPs will be successfully implemented and adopted by employers and employees across Canada. The CBA Section is of the view that deviation from the federal PRPP legislation should be an exception sparingly exercised.

There are some differences between federal and provincial pension legislation. If the provincial PRPP legislation "mirrors" the federal PRPP legislation, the provincial PRPP legislation may have provisions that are different from provincial pension legislation. There are two conceptual approaches on this issue. One approach is to consider a PRPP much like an RRSP and as an entirely different category of retirement savings vehicle, requiring an entirely different regulatory approach. The other approach is to take the view that a PRPP is a pension plan and should be subject to minimum standards protections. In this case, we believe that the provincial PRPP legislation should be consistent with provincial pension standards legislation. This will avoid creating an entirely new regulatory regime which may confuse stakeholders and increase costs.

PRPP LEGISLATION

In an ideal world, PRPP legislation and regulations would be fully harmonized. However, the jurisdictions that have thus far introduced or proposed PRPP legislation have taken different approaches. Quebec and Alberta have adopted their own distinct PRPP legislation while Saskatchewan and British Columbia have essentially adopted (by reference) most of the federal PRPP Act.

Some important differences between the federal PRPP legislation and the legislation introduced or adopted by some provinces may result in serious harmonization issues.

1. Plan Administrators (Licensing)

The Quebec VRSP Act provides that only life insurers, trust companies and investment fund managers may act as administrators of a VRSP while the federal Saskatchewan and British Columbia PRPP Acts permit any corporation to be an administrator if the required conditions are satisfied. The Alberta PRPP Act provides that any corporation licensed by the Superintendent may act as an administrator. The federal PRPP Regulations do not require that a corporation be a life insurer, a trust company or an investment fund manager to act as an administrator. A corporation that is not a life insurer, a trust company or an investment fund manager licensed to act as an administrator under the federal PRPP Act and Regulations would not be able to fulfill the same role under the Quebec VRSP Act and Regulations. Given that one of the main purposes of PRPPs is to provide pension coverage to workers without employer sponsored pension plans, the CBA Section believes that PRPP administrators licensed under provincial or federal legislation should be able to offer a PRPP anywhere across Canada.

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Another example of the need for harmonization is the "low cost" requirement in all PRPP legislation. At present, only the Quebec VRSP draft Regulations and the federal PRPP Regulations set out criteria to determine whether a PRPP is being provided to its members at low cost. While the criteria in the federal PRPP Regulations is adopted (by reference) in the Quebec VRSP draft Regulations, these draft Regulations add other criteria that must also be satisfied for a VRSP to be provided at low cost. Given the fundamental importance of the low cost requirement, the CBA Section believes the rules for this requirement should be uniform across Canada. Indeed, having

different rules imposes an additional administrative burden on plan administrators which in turn, will likely have an impact on the low cost requirement itself. This would be counterproductive. The CBA Section urges all jurisdictions to consider harmonization on at least the key principles and rules such as the "low cost" requirement.

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Locking-in rules also raise harmonization issues. The legislation in Saskatchewan, Alberta and British Columbia, as well as the federal PRPP Act, all provide that both member and employer contributions (if any) are locked-in. However, the Quebec VRSP Act states that any employer contributions are to be credited to the member's locked-in account while member contributions are to be credited to their non-locked-in accounts. These different locking-in rules also have a direct impact on the rules for transfers and refunds. As a result, plan administrators will have to deal with different rules if the PRPP covers both Quebec and non-Quebec members. To keep PRPP costs low, PRPP legislation and regulations should not force plan administrators to apply different legislative and regulatory regimes.

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THE CANADIAN
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INFLUENCE. LEADERSHIP. PROTECTION.

June 17, 2014

Via email: financeminister@gov.nl.ca

The Honourable Charlene Johnson
Minister of Finance
Main Floor, East Block, Confederation Building
P.O. Box 8700
St. John's, NL A1B 4J6

Dear Minister Johnson,

Re: Harmonization of Pooled Registered Pension Plans (PRPPs)

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THE CANADIAN
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BARREAU CANADIEN

INFLUENCE. LEADERSHIP. PROTECTION.

June 17, 2014

Via email: minister.ju@gov.sk.ca; Dave.Wild@gov.sk.ca

The Honourable Gordon Wyatt Q.C.
Minister of Justice
Room 355, Legislative Building
2405 Legislative Drive
Regina, SK S4S 0B3

Dave Wild
Chair
Financial and Consumer Affairs Authority of Saskatchewan
601 - 1919 Saskatchewan Drive
Regina, SK S4P 4H2

Dear Minister Wyatt and Mr. Wild,

Re: Harmonization of Pooled Registered Pension Plans (PRPPs)

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All Canadians should have equal access to PRPPs as part of their retirement planning arsenal. For PRPPs to function as they were designed they must be fully portable and therefore available across the country. PRPP providers (i.e., financial institutions) require economies of scale to keep investment and administrative costs as low as possible. The CBA Section is of the view that economies of scale and full portability can only be achieved if PRPPs are available in all Canadian jurisdictions, requiring that all provinces enact PRPP enabling legislation.

FEDERAL PRPP LEGISLATION VERSUS PROVINCIAL PENSION LEGISLATION

The CBA Section recommends that provincial PRPP legislation mirror the federal PRPP legislation, to the extent possible, for consistency, clarity, simplicity and cost minimization. Any provincial deviation from the federal PRPP legislative framework will likely result in complexity and increased cost which

could reduce the likelihood that PRPPs will be successfully implemented and adopted by employers and employees across Canada. The CBA Section is of the view that deviation from the federal PRPP legislation should be an exception sparingly exercised.

There are some differences between federal and provincial pension legislation. If the provincial PRPP legislation "mirrors" the federal PRPP legislation, the provincial PRPP legislation may have provisions that are different from provincial pension legislation. There are two conceptual approaches on this issue. One approach is to consider a PRPP much like an RRSP and as an entirely different category of retirement savings vehicle, requiring an entirely different regulatory approach. The other approach is to take the view that a PRPP is a pension plan and should be subject to minimum standards protections. In this case, we believe that the provincial PRPP legislation should be consistent with provincial pension standards legislation. This will avoid creating an entirely new regulatory regime which may confuse stakeholders and increase costs.

PRPP LEGISLATION

In an ideal world, PRPP legislation and regulations would be fully harmonized. However, the jurisdictions that have thus far introduced or proposed PRPP legislation have taken different approaches. Quebec and Alberta have adopted their own distinct PRPP legislation while Saskatchewan and British Columbia have essentially adopted (by reference) most of the federal PRPP Act.

Some important differences between the federal PRPP legislation and the legislation introduced or adopted by some provinces may result in serious harmonization issues.

1. Plan Administrators (Licensing)

The Quebec VRSP Act provides that only life insurers, trust companies and investment fund managers may act as administrators of a VRSP while the federal Saskatchewan and British Columbia PRPP Acts permit any corporation to be an administrator if the required conditions are satisfied. The Alberta PRPP Act provides that any corporation licensed by the Superintendent may act as an administrator. The federal PRPP Regulations do not require that a corporation be a life insurer, a trust company or an investment fund manager to act as an administrator. A corporation that is not a life insurer, a trust company or an investment fund manager licensed to act as an administrator under the federal PRPP Act and Regulations would not be able to fulfill the same role under the Quebec VRSP Act and Regulations. Given that one of the main purposes of PRPPs is to provide pension coverage to workers without employer sponsored pension plans, the CBA Section believes that PRPP administrators licensed under provincial or federal legislation should be able to offer a PRPP anywhere across Canada.

2. Low Cost Requirement

Another example of the need for harmonization is the "low cost" requirement in all PRPP legislation. At present, only the Quebec VRSP draft Regulations and the federal PRPP Regulations set out criteria to determine whether a PRPP is being provided to its members at low cost. While the criteria in the federal PRPP Regulations is adopted (by reference) in the Quebec VRSP draft Regulations, these draft Regulations add other criteria that must also be satisfied for a VRSP to be provided at low cost. Given the fundamental importance of the low cost requirement, the CBA Section believes the rules for this requirement should be uniform across Canada. Indeed, having different rules imposes an additional administrative burden on plan administrators which in turn, will likely have an impact on the low cost requirement itself. This would be counterproductive. The CBA Section urges all jurisdictions to consider harmonization on at least the key principles and rules such as the "low cost" requirement.

3. Locking-in, Transfers and Refunds Rules

Locking-in rules also raise harmonization issues. The legislation in Saskatchewan, Alberta and British Columbia, as well as the federal PRPP Act, all provide that both member and employer contributions (if

any) are locked-in. However, the Quebec VRSP Act states that any employer contributions are to be credited to the member's locked-in account while member contributions are to be credited to their non-locked-in accounts. These different locking-in rules also have a direct impact on the rules for transfers and refunds. As a result, plan administrators will have to deal with different rules if the PRPP covers both Quebec and non-Quebec members. To keep PRPP costs low, PRPP legislation and regulations should not force plan administrators to apply different legislative and regulatory regimes.

4. Contributions

In no jurisdiction are employer contributions to PRPPs mandatory. Quebec requires most employers to make VRSPs available to employees, but there is no requirement for employer contributions.

Under the Quebec VRSP Act, members may determine their contributions, failing which the rate set by regulation applies. Under the federal, British Columbia, Saskatchewan and Alberta PRPP Acts, the administrator sets the member contribution rate(s) and there is no default rate. In all jurisdictions, members have an opportunity to reduce their contributions to zero for a period of time, which is specified in the federal PRPP Regulations but not yet prescribed in the other jurisdictions. Communicating and administering different contribution rules, including the contribution reduction provisions, adds to the complexity of administration.

5. Regulation of Member Optional Investments

Another example of different approaches is the regulation of investment options. All jurisdictions appear to require that the administrator establish a default investment option. However, the law varies in the degree of prescription imposed for the parameters for the default option. Under the federal legislation, the default option is loosely prescribed while the Quebec legislation includes specific investment criteria for the default option. The specific investment rules prescribed are also different between the federal and Quebec legislative schemes.

Further variation exists between the jurisdictions on whether alternative options may be made available to members, and if so, the number of options that may or must be offered. Under the federal, British Columbia, Saskatchewan and Alberta PRPP legislation, an administrator has discretion to offer members a choice of investments by offering alternative options, but is not required to offer options. In contrast, the Quebec legislation requires an administrator to offer members a choice of investments by offering from three to five alternative investment options.

As a consequence of these variations, plan administrators will have to deal with different investment rules and likely provide different investment options to its members if the PRPP covers members in multiple jurisdictions, especially between Quebec and non-Quebec members. This is inconsistent with the "low cost" intent and spirit of creating PRPPs which is achieved by keeping administrative expenses low and allowing pooled plans to capitalize on economies of scale. The CBA Section urges all jurisdictions to consider harmonization on at least the default investment options and rules for alternative options offered.

REGULATORY FRAMEWORK

In addition to legislative harmonization, the CBA Section supports regulatory harmonization of PRPPs. A high level of regulatory harmonization across the federal, provincial governments is instrumental in increasing the scale of PRPPs and achieving low costs. Regulatory harmonization of PRPPs would simplify administration, allowing lower administration fees, and provide consistency in the supervision and maintenance of PRPPs across different jurisdictions.

To achieve full regulatory harmonization, the CBA Section would prefer to have one supervisory authority oversee all aspects of PRPP regulation across Canada. Current and proposed PRPP legislation

in Canada, however, have different supervisory authorities to regulate PRPPs based on the jurisdiction where a PRPP is registered. The CBA Section supports PRPP legislation that allows multi-jurisdictional agreements to be made between and among the governments of different Canadian jurisdictions, to authorize, among other things, the delegation of powers from one supervisory authority to another. A multilateral agreement would permit consistent and uniform supervision of multi-jurisdictional PRPPs. It could also reduce the possibility of inequities in the treatment and regulation of PRPPs and PRPP administrators across different jurisdictions.

The delegation of powers from one PRPP supervisory authority to another promotes regulatory harmonization while facilitating administration of a PRPP where it is offered in more than one jurisdiction.

Where a multi-jurisdictional PRPP is offered and the majority of members are located in one jurisdiction, the CBA Section supports the delegation of powers from the supervisory authority(ies) of the jurisdiction(s) with a minority of members to the supervisory authority of the jurisdiction with a majority of members. Limiting the number of regulating entities that a PRPP administrator must deal with for a multi-jurisdictional PRPP would ease administration and allow lower administrative costs. It would also encourage eligible PRPP administrators to offer a single PRPP across multiple jurisdictions, as opposed to different PRPPs in different jurisdictions, thereby increasing the cost of the PRPP.

With several PRPP supervisory authorities operating across Canada, the CBA Section favours the establishment and operation in Canada of an association of supervisory authorities to provide guidance and consistency in the regulation of PRPPs. A high level of regulatory harmonization of PRPPs would make it easier for PRPP administrators to provide PRPPs that serve their purpose of being an accessible and administratively low-cost option for Canadians to save for retirement.

We trust these comments are a helpful step toward harmonization. Please do not hesitate to let us know if you have any questions or if you would like any further information.

Yours truly,

(original signed by Noah Arshinoff for Lawrence Swartz)

Lawrence Swartz
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